

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2480 OF 2006

M/s.Maya developers

...Petitioner.

Vs.

Shyamsunder Jagdishprasad Sharma & Ors.

...Respondents.

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Mr. A.A. Joshi with Ms.Madhavi S. Nalawade for the Petitioner.

Mr. S.C. Poojary for Respondent Nos.1, 5, 6, 8 and 9.

Mr. K.V. Tembe for Respondent Nos.10, 11, 14 and 15.

Mr. Dharmendra M. Joshi for Respondent Nos.12, 13 and 16.

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CORAM : DR.D.Y.CHANDRACHUD, J.

December 6, 2006.

P.C.

The Petition seeks to impugn an order passed by the Co-operative Appellate Court on 10th August 2006, reversing the order passed by the Co-operative Court on 22nd March 2006 by which the Co-operative Court has held that the dispute raised by Respondent Nos.1 to 9 was not maintainable under Section 91 of the Maharashtra Co-operative Societies' Act, 1960. After the petition has been heard and before the judgment is delivered, Counsel appearing on behalf of Respondent Nos.1 to 9 took the permission of the Court to withdraw the dispute that is filed before the Co-operative Court, namely, Case No.CC-II/492 of 2005 with

liberty reserved to the aforesaid Respondents to adopt appropriate proceedings if they are so advised, before the appropriate Civil Court. The request for withdrawal subject to the grant of liberty in the aforesaid terms is not opposed on behalf of the Petitioner or by Counsel appearing on behalf of Respondent Nos.10, 11 and 12. In these circumstances, in view of the statement made on behalf of Respondent Nos.1 to 9, the dispute before the Co-operative Court, namely, Case No.CC-II/492 of 2005 is dismissed as withdrawn with liberty reserved to Respondent Nos.1 to 9 to adopt, if they are so advised, the appropriate remedy available in accordance with law. In the circumstances, the impugned order of the Co-operative Appellate Court dated 10th August 2006 is quashed and set aside. It is further clarified that no opinion has been expressed one way or the other by this Court on the merits of the rights and contentions of the parties. On behalf of the Petitioner herein and the Tenth Respondent, which is a Co-operative Society, their Counsel stated before the Court that neither the Society nor the Developer has any intention of forcibly evicting Respondent Nos. 1 to 9 or demolishing the premises. The statement is accepted. Counsel state that the status quo shall accordingly be preserved for a period of six weeks from today to

enable Respondent Nos.1 to 9 to seek recourse to the remedies before the appropriate Court.

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